

Serial No.: 10/777,390

REMARKS

Reconsideration and continuing examination of the above-identified application is respectfully requested in view of the amendments above and the discussion that follows.

Claims 1, 3, 7, 8, 10 and 18 have been amended. Claim 4 was canceled. Claims 20 through 23 are new. Claims 8, 9, and 11 were said to be allowed, whereas claims 5-7 were objected to as depending from a rejected claim. Claims 1-3 and 5-23 are in the case and are before the Examiner.

I. The Amendments

The specification has been amended to recite the parental application and its status.

Claim 1 has been amended pursuant to the Examiner's helpful suggestion in the parental application by addition of the limitations of claim 4 thereto. Claim 7 has been amended to correct the valence of silicon. Claim 8 has been amended pursuant to the Examiner's previous helpful suggestion by cancellation of the word "rapidly". Claims 3, 10, 14 and 18 have also been amended pursuant to the Examiner's helpful suggestion by canceling the phrase "or a combination thereof".

New claims 20-23 each recite that the pH of the alkaline solution of the independent claim is 8 or greater, as is disclosed at least on page 18, paragraph 0054 of the specification, and further defining an aspect of the invention.

It is thus seen that no new matter has been added.

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## II. The Action

### A. Provisional Rejection Under 35 USC §101

Claims 4, 12-19 were provisionally rejected over the claims of parental application Serial No. 10/741728. That application, but not the invention disclosed and claimed therein, was expressly abandoned. It is therefore believed that this basis for rejection is moot.

### B. Rejection Under 35 USC §112, Second Paragraph

Claims 3, 10, 14 and 18 were rejected as allegedly indefinite because of their use of the phrase "one or more of ... or combinations thereof." Although it cannot be agreed that the phrase in question is indefinite, that phrase has been cancelled to speed prosecution. It is therefore believed that this basis for rejection is moot.

### C.. Rejection Under 35 USC §102(e)

Claims 1 and 2 were rejected as anticipated by the disclosures of US Patent No. 6,1431,195 to Price. Price taught treatment of pyrites to kill bacteria that cause the production of acid water from mines. It is submitted that the amendments to claim 1 overcome that rejection, particularly in view of the Actions comments concerning claims 5-9 and 11.

## III. Summary

Claims 1, 3, 7, 8, 10 and 18 have been amended, and claim 4 canceled. Claims 20 through 23 are are. The Action stated that claims 8, 9, and 11 were allowed, whereas claims 5-7 were objected to as depending from a rejected claim. Each basis

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for rejection has been dealt with and overcome or otherwise made moot.

It is therefore believed that this application is in condition for allowance of all of the pending claims. An early notice to that effect is earnestly solicited.

No further fee or petition is believed to be necessary. However, should any further fee be needed, please charge our Deposit Account No. 23-0920, and deem this paper to be the required petition.

The Examiner is requested to phone the undersigned should any questions arise that can be dealt with over the phone to expedite this prosecution.

Respectfully submitted,



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**CERTIFICATE OF MAILING**

I hereby certify that this Reply and Amendment, in duplicate, is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on December 19, 2005.



Edward P. Gamson